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Sixth Committee

Summary record of the 24th meeting
Held at Headquarters, New York, on Monday, 12 March 2007, at 10 a.m.

Chairman: Mr. Sivagurunathan (Vice-Chairman) ..... (Malaysia)

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07-26631 (E)

In the absence of Mr. Gómez Robledo (Mexico), Mr. Sivagurunathan (Malaysia), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

Organization of work

1. **The Chairman** said that the resumed session of the Sixth Committee had been convened in accordance with General Assembly decision 61/511 of 4 December 2006. Drawing attention to the proposed programme of work for the resumed session, he said that the Bureau had proposed that a working group, open to all Committee members and chaired by him, should be established to consider agenda item 128, "Administration of justice at the United Nations". In accordance with established practice, the proposed work programme would be applied with flexibility in the light of the progress made by the Committee. He took it that the Committee wished to proceed on the basis of the proposed work programme.

2. *It was so decided.*

Agenda item 153: Requests for observer status in the General Assembly (*continued*)

Observer status for the Islamic Development Bank Group in the General Assembly (A/61/646 and A/C.6/61/L.20)

3. **Mr. Al-Anazi** (Saudi Arabia), introducing draft resolution A/C.6/61/L.20 concerning observer status for the Islamic Development Bank Group, said that, in addition to the sponsors listed in the draft resolution, Suriname and Tajikistan had also become sponsors. Having drawn attention to the information contained in document A/61/646, he said that granting the Islamic Development Bank Group observer status would cement the Group's relationship with the United Nations and facilitate its work as an intergovernmental development organization. The Group stood ready to share its expertise with the United Nations.

4. **The Chairman** said that a number of delegations had requested that consultations should be held on the agenda item. The Committee would therefore defer action on the draft resolution.

5. *It was so decided.*

Agenda item 128: Administration of justice at the United Nations (*continued*) (A/RES/59/283; A/61/205, A/61/458, A/61/460 and A/61/758)

6. **The Chairman** said that, pursuant to General Assembly decision 61/511 of 4 December 2006, the Committee was to consider, at its resumed session, the legal aspects of the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205), taking into account, as appropriate, the Secretary-General's comments on the report (A/61/758) and any comments that might be issued in future by the Advisory Committee on Administrative and Budgetary Questions.

7. The agenda item had been assigned to both the Fifth Committee and the Sixth Committee, and the Secretariat had recently organized two informal briefings for members of both Committees. In addition, the Bureaux of the two Committees had held a number of joint meetings to coordinate the consideration of the item and would continue consultations to that end.

8. **Mr. Fitschen** (Germany), speaking on behalf of the European Union, expressed support for the referral of substantive matters to the working group for discussion. The European Union shared the view of the Redesign Panel and the Secretary-General that the Organization needed an internal justice system that enjoyed the confidence of both staff and management. The proposals submitted by the Redesign Panel for the establishment of a professional, independent and decentralized internal justice system amounted to a complete restructuring of the current system and deserved careful scrutiny by Member States.

9. The joint briefings recently organized by the Secretariat for members of the Fifth and Sixth Committees had helped delegations gain a better understanding of the proposals. Such joint briefings could serve as a model in other contexts where cross-cutting issues were being discussed in different Main Committees. Consideration of the agenda item should be properly coordinated so as to avoid duplication of work, and he expressed appreciation of the efforts of both Bureaux in that regard. The Sixth Committee should focus on formulating legal views on the proposals and leave consideration of the organizational and budgetary implications to the Fifth Committee.

10. The Sixth Committee's work should be guided by a number of fundamental principles. Efforts to improve the system of administration of justice should be

regarded as a common endeavour of all those involved — Member States, management and staff. A new system enjoying the confidence and support of all could make a substantial contribution to the overall process of reform of the Organization that would benefit every staff member. In addition, the United Nations, which was involved in establishing norms and advocating the rule of law, should live up to its own standards in its internal practices. It had a duty to provide staff with fair, effective and timely justice.

11. The shortcomings of the current system consisted mainly of structural flaws. The system had not been able to keep pace with the enormous expansion of the United Nations system. Criticism of the flaws should not, however, be construed as criticism of the people who had worked in it. The European Union wished to acknowledge the work of the large number of individuals, many of them volunteers, who had served and were still serving in the current system.

12. Lastly, the deliberations of the Committee should be guided by the rules and standards of international law and the principles of the rule of law that guided Member States at the national and international levels. A reformed system of administration of justice would also help strengthen the rule of law within the Organization. The rule of law was an important new topic on the agenda of the Committee, and it was therefore particularly relevant for the Committee to add its own perspective to the work of the General Assembly on the Redesign Panel's report.

13. **Mr. Playle** (Australia), speaking on behalf of the CANZ group of countries (Canada, Australia and New Zealand), said the Redesign Panel's portrayal of the current system of internal justice in the United Nations was alarming and confirmed the group's long-held view that the system was in need of fundamental reform. It was incumbent on all concerned to implement such reform quickly. The Organization's staff deserved a fair and more efficient system as soon as it could be delivered.

14. The Redesign Panel's recommendations provided a well-reasoned basis for agreeing on a new system of internal justice. The CANZ group had some questions about the recommendations and looked forward to hearing views on how the new system might work in practice.

15. The legal aspects of the recommendations could not readily be separated from the other aspects. It would therefore be difficult to determine an appropriate division of labour between the Fifth and Sixth Committees, and a disciplined approach by the Sixth Committee would be necessary. The most significant role for the Sixth Committee might be to ensure that appropriate standards of due process and fairness were incorporated into the new system of internal justice. Once it had seen what changes the Fifth Committee proposed to the recommendations, it should check that those changes did not unduly prejudice considerations of due process or fairness. The Sixth Committee should also discuss what legal principles should guide the new system of internal justice, taking into account the circumstances of United Nations staff, in particular the fact that they did not have recourse to national legal mechanisms in the event of a dispute.

16. The CANZ countries appreciated that a new system of internal justice would come at a price and were ready to pay their share. However, like others, they believed that the price should be as low as possible, while maintaining the integrity of the new system. The CANZ group looked forward to the Fifth Committee's discussions on the costs involved. However, the Sixth Committee should not replicate those discussions. While it could provide some broad guidance on legal issues to the Fifth Committee now, its most valuable contribution would come later. Discussions on certain substantive issues should therefore be deferred.

17. **Mr. Afifi** (Egypt) said that his delegation supported efforts to improve the system of administration of justice so as to provide better protection of the rights of staff and ensure accountability. Unified legal rules should be adopted and implemented at all levels of the judicial system of the United Nations and by the International Labour Organization Appeals Tribunal so as to give effect to the principle that all were equal before the law. It was also important to establish rules for determining entitlement to compensation and how the appropriate amount should be calculated.

18. His delegation supported the Redesign Panel's proposal to replace the current advisory mechanism, consisting of the Joint Appeals Board and the Joint Disciplinary Committee, with a mechanism capable of adopting binding decisions. It also supported the enhancement of the existing investigation system through the establishment of a standing Board of

Inquiry in every peacekeeping mission. Such Boards should have a clear mandate to ensure fairness, transparency and accountability in investigations. Staff members should be interviewed in person and should be notified in writing of any disciplinary measures or administrative decisions affecting them.

19. All important administrative decisions should be subject to the approval of the Secretary-General or another person delegated by him for that task, since the Charter of the United Nations provided that the Secretary-General was the chief administrative officer of the Organization. It would then be possible to bring a legal action against the Secretary-General or the head of a specialized agency or programme in the event of any violation, thereby ensuring the accountability of the Administration.

20. Mediation options and the Office of the Ombudsman should be strengthened so that claimants could have recourse to them on a voluntary basis at any stage before the adoption of a final decision by the relevant tribunal, within a clear time frame. His delegation supported the establishment of a two-tiered system of formal justice comprising a first-instance tribunal with one judge and an appeals tribunal with three judges. The decisions of the appeals tribunal should be final and binding, and the Secretary-General or the relevant heads of specialized agencies or programmes should be notified of them and take appropriate measures to implement them.

21. The question of granting staff associations the right to bring a class action required further consideration, since, in accordance with international standards, all individuals had the right to their own lawyer. It would be difficult to grant staff associations the same rights of litigation as individuals.

22. With regard to the division of labour between the Fifth and Sixth Committees, he said that the question of reforming the system of internal justice was primarily an administrative issue, although it did have some legal aspects. The Sixth Committee should focus on forming a legal opinion that could help the Fifth Committee in its deliberations. Duplication of work should be avoided.

23. His delegation stood ready to discuss the reform of the system of administration of justice with the aim of ensuring the rule of law, strengthening human rights principles and establishing a framework for responsibility and accountability within the Organization.

24. **Ms. Rodríguez-Pineda** (Guatemala) said that the reform of the administration of justice was an issue of prime importance for her delegation and a key element within the overall reform of the United Nations. The interactive exchange with the Administration and with Judge Mary Gaudron, member of the Redesign Panel, had been very useful and informative. The Sixth Committee's role was to contribute suggestions and input concerning the legal aspects of the reform of the internal justice system; therefore its first task would be to identify the legal elements in the Panel's recommendations and the Secretary-General's comments on them.

25. She agreed with the general approach taken by the representative of Australia on behalf of the CANZ group and by the representative of Egypt, but wished to add a few comments. The Redesign Panel's recommendations were largely structural and did not address some of the procedural issues that would be important for the proper functioning of the new system. It also appeared that the recommendations indirectly encouraged litigation by stressing the judicial avenue as the main mechanism for dispute resolution. Throughout the world it had been found that tribunals were not always the most efficient dispute settlement mechanisms, so that alternative methods had been developed.

26. Her delegation was pleased to see that the Administration was ready for reform and thought that a combination of the ideas contained in both the Redesign Panel's report and the Secretary-General's comments could result in a system that would provide the Organization's most important asset, its staff, with timely access to proper justice. No one in the room could doubt the inefficiency, injustice, stagnation and complexity of the old system or the need to introduce changes based on the principles of due process, transparency, timeliness and independence. Her delegation supported a strengthened extrajudicial or informal system in order to avoid overuse of the formal system and was particularly interested in the idea that disputes could be resolved in a mediation procedure resulting in an agreement of the parties followed by a formal administrative decision.

27. The judicial or formal system must be set up to be independent, transparent and efficient. In general her

delegation supported the idea of a two-tiered system but would like to see more discussion concerning the relative merits of a single judge versus a judicial panel; the need for a pre-judicial administrative review subject to fixed deadlines; the feasibility of favourable judgements based on implied decisions; the mediation powers of a judge and the need for mediating judges to recuse themselves from cases not resolved by mediation; the legal conditions under which staff associations might bring an action; the legal implications of replacing the Secretary-General by the Organization as respondent in view of Article 97 of the Charter of the United Nations; the need to ensure that the Appellate Tribunal did not re-try a case in its entirety by assigning it a limited jurisdiction; the potential incompatibility of punitive damages and personal liability of managers with the functioning of the Organization; and determining the existence of an obligation of diligence on the part of the Organization towards its staff.

28. In view of its complexity, the disciplinary issue should be removed from the current discussion. Moreover, anything having to do with discipline in connection with peacekeeping should be considered by the Special Committee on Peacekeeping Operations in order to avoid duplication of effort. The task at hand for the Sixth Committee was to provide constructive and practical assistance in the form of recommendations on legal aspects of the reform of the internal justice system to the Fifth Committee, which was responsible for deciding on the composition of the new system.

29. **Ms. Skåre** (Norway) said that the long-standing criticism of the current system of internal administration of justice as inefficient and unfair had been confirmed by the Redesign Panel in its report and acknowledged by the Secretary-General in his comments in response. Norway's aspiration for the United Nations was as simple as it was ambitious: the United Nations should lead a world order based on the rule of law, without which there could be no sustainable peace, no justice and no stable and prosperous societies. It followed that the Organization itself must be governed internally by the principles of the rule of law. To safeguard the United Nation's ability to function independently, its staff was granted privileges and immunities; but since its staff members had no recourse to national legal systems, an internal system of administration of justice was necessary. Her delegation supported improving the internal justice system to provide adequate safeguards and due process so as to ensure the accountability of staff members.

30. Her delegation supported an independent, two-tiered system of formal justice and was in favour of professionalizing and decentralizing the system, strengthening the mediation system and establishing a mechanism for legal assistance. It supported the general recommendations of the Panel and the Secretary-General, while recognizing the need to discuss further the implementation of some concepts, such as who should have access to the tribunals, the rationale for retaining an administrative review process, the number of judges and their qualifications, the jurisdiction of the tribunals and the conduct of disciplinary proceedings.

31. Member States had pledged to provide the Organization with adequate resources to fulfil its mandates, and Norway stood by that pledge. A properly functioning internal justice system was a prerequisite for a properly functioning Secretariat and would help prevent misconduct and mismanagement. Correction of the flaws of the current system was long overdue, and financial considerations should not lead Member States to settle for something less than adequate from the point of view of justice.

32. **Ms. Sarne** (Philippines) said that her delegation welcomed the comprehensive report of the Redesign Panel and the Secretary-General's comments on its recommendations, which had been enriched by consultations with the Staff-Management Coordination Committee. Her delegation supported the Secretary-General's position that the internal justice system should not cover persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or consulting firm, since they were governed by the rules of their contracts, or military and police personnel in peacekeeping operations, who were governed by national or other rules of conduct. However, such rules should be supplemented by the proposed memorandum of understanding currently being considered between the United Nations and the troop-contributing countries, which would address the issues of sexual exploitation and abuse.

33. Informal justice systems were important as a form of moral governance. An effective and timely

mechanism for informal dispute resolution would promote more social cohesion in the workplace and avoid unnecessary litigation. Her delegation therefore supported the establishment of a single integrated Office of the Ombudsman, with regional Ombudsmen appointed to duty stations and to certain peacekeeping missions in order to provide equitable geographic access. However, the success of the informal justice system was linked to reforms in the formal justice system. Her delegation also supported the establishment of a first-instance tribunal, the United Nations Dispute Tribunal, which could issue binding decisions subject to appeal, and it agreed that the cases before the Dispute Tribunal should be heard by a panel of three judges to reflect the multicultural nature of the United Nations and to foster the perception of justice, impartiality, fairness and transparency.

34. The issue of jurisdiction over persons and subject matter and the power to hand down binding decisions and order remedies were central to the reform process. She supported the recommendation to establish an intersessional working group to discuss issues relating to disciplinary proceedings. She agreed that exemplary and punitive damages should not be awarded, insofar as they would be improperly taken from public funds, and thought that existing mechanisms for enforcing financial accountability should be reviewed.

35. Structural reform should be followed by procedural reform and amendments to existing rules and regulations, which the Sixth Committee ought to consider. Earlier changes to the staff rules had been little more than palliative, whereas the justice system required re-engineering to remove loopholes that contributed to inefficiency, mistrust and partiality. The United Nations had no choice but to change its system. As an institution promoting human rights, good governance, transparency and accountability, the United Nations must do as much for its staff by applying the principles it advocated. Initiatives must not be piecemeal, but coherent, coordinated, integrated with a broader strategy for reform and implemented through broad consultation with all stakeholders. Reform owned by the management and staff of the United Nations could lead to changes in behaviour, the strengthening of trust and confidence and the promotion of accountability.

36. **Ms. Wilcox** (United States of America) said her delegation believed that reform of the internal justice system was long overdue and recognized that the choices made in the current comprehensive reform would have a lasting effect and define the system for the next generation. Although she could accept much in the recommendations of the Redesign Panel, the Secretary-General and the staff representatives, she wished to highlight a few areas of concern.

37. As for the development of a robust informal justice system as part of the reform package, it was generally recognized that mediation and arbitration provided useful dispute settlement alternatives to lengthy and costly formal litigation. However, alternative dispute resolution systems generally provided a mechanism to ensure that settlements were not later brought into the formal system. Such a mechanism was important in order to improve the efficiency of caseload management and assure parties to a dispute that settlements reached in the informal system would be respected. Clarity must be sought on how that principle would be implemented.

38. With regard to the formal justice system, the general structure and approach consisting of a trial court and an appeals court was sound, but the recommendations had not adequately addressed some questions of jurisdiction. It would not be consistent with modern principles of justice to allow issues of both law and fact to be heard at both levels of the justice system, and there was no need for more than one judge to hear cases at the trial level. Her delegation had concerns about the recommendation to extend the justice system beyond United Nations staff to cover contractors and others. The Organization's obligations to staff members and non-staff members were not the same, and the dispute resolution mechanisms for each should be separate. The means of dispute resolution open to consultants and other contractors provided for arbitration and was already consistent with applicable norms.

39. Since it was the General Assembly's prerogative to determine the rights of staff and the obligations owed to them by the Organization, her delegation was concerned about the Redesign Panel's suggestion that that function should be delegated to the system of administrative justice. Nor did it think it was appropriate for staff associations to bring class actions in a self-contained system like the United Nations, where all potential claimants were identifiable and policy changes could readily be applied to the whole class of affected staff. With regard to damages, it should be noted that the award of punitive damages

was not widespread and was generally not allowed against publicly funded institutions, such as the United Nations. For similar reasons, her delegation could not support the elimination of the cap on compensatory damage awards. Moreover, the suggestion that staff should bear direct financial liability for their official actions resulting from negligence was inconsistent with prevailing norms and practices. Although her delegation agreed on the need to improve accountability, such a proposal could seriously harm the Organization's efforts to recruit and retain staff, and the issue of personal accountability could best be addressed by improving existing mechanisms.

40. Lastly, her delegation questioned whether the Organization had an obligation to provide staff with direct, free legal support, in the pursuit of their claims; the issue required further consideration. Given the complexities of the issues before the Committee, her delegation would caution against any rush to reach final conclusions on a new internal justice system that would affect tens of thousands of individuals for years to come.

41. **Mr. Ballestero** (Costa Rica) said that while the Redesign Panel's work had been exhaustive, its report had been limited by pre-existing regulations that his delegation did not necessarily share; at the informal briefings, he had been informed that a number of elements had not been included because of restrictions on the length of the report.

42. His delegation considered that an interdisciplinary approach was called for: the Sixth Committee should serve as a technical and legal adviser to the Fifth Committee, and the structuring of a new system of administration of justice should be based on a clear definition of the underlying legal principles. He supported the proposal that the Sixth Committee should establish a working group on the topic.

43. His delegation shared the view that the so-called "administration of justice" system was badly in need of reform. The United Nations message in defence of the rule of law, due process and respect for human rights must be disseminated both throughout the world and within the Organization itself, and the point at which administrative procedures were exhausted and the formal justice system began must be clearly defined. He supported the proposal to vest authority (in order to ensure efficiency) and responsibility (through a review system and binding decisions) with the Secretariat.

44. Because the issue of peacekeeping missions was a complex one, it should be addressed in a detailed manner over a longer period of time and should be examined jointly with the Special Committee for Peacekeeping Operations. The Organization's relations with troop-contributing countries were governed through memorandums of understanding that must be compatible with its system of administration of justice. His delegation therefore believed that the correct approach would be first to establish the general system of justice and then to ensure that the memorandums of understanding were compatible with it; the recent cases of rape and sexual exploitation by peacekeepers made it urgent to resolve the issue promptly, but with due respect for the law.

45. **Mr. Mikanagi** (Japan) pointed out that the Committee had before it proposals that would change the system of administration of justice fundamentally and should therefore be considered carefully. He wondered whether a two-tiered formal system was necessary if management review was to be introduced at the initial stage of the formal system and whether three judges were really needed at the lower tier. The Secretary-General had made significant changes in the Redesign Panel's report, and Member States' views were likely to be even more diverse.

46. **Mr. Shah** (Pakistan) stressed that a fair, balanced system of justice was essential to any organization. The problems faced by United Nations staff had been known for some time; as the Redesign Panel had noted, the internal justice system lacked independence. It was outmoded, dysfunctional, ineffective and costly and should be redesigned. The Secretary-General agreed that a new system was needed, but he had ignored some of the Redesign Panel's fundamental recommendations. It was unfortunate that the negotiations between the staff unions and the administration had not involved the Staff Union at Headquarters; greater effort should have been made to ensure full participation.

47. The Committee had before it two reports: one procedural (that of the Secretary-General (A/61/758)) and one substantive (that of the Redesign Panel). It would seem appropriate for the Committee to transmit its recommendations on the legal aspects of the issues covered in those reports to the Fifth Committee, which

would then prepare final recommendations for the General Assembly; he asked the Chairman to clarify the appropriate methodology for that process. His delegation planned to address the changes that the Secretary-General had made to the Redesign Panel's report in the context of the working group.

48. **Ms. Chadha** (India), noting that there was widespread criticism of the existing internal justice system, said that since staff members had no external recourse to the legal systems of Member States, as a result of the jurisdictional immunities enjoyed by the Organization, it was essential that they should have effective access to an independent, impartial and efficient redress mechanism. The Redesign Panel's report sought to ensure respect for democratic and good governance standards and for human rights through the establishment of a professional, independent and decentralized internal justice system.

49. Her delegation broadly supported the two-tiered approach proposed by the Redesign Panel and endorsed by the Secretary-General in order to safeguard the rights of staff and ensure effective accountability by creating an Office of Counsel; an integrated Office of the Ombudsman for the Secretariat and the funds and programmes, with regional and additional Ombudsmen appointed at designated duty stations; and a Mediation Division within the Office of the Ombudsman. Mediation was a fair, efficient process that was also cost-effective and promoted a better work environment because it did not involve determination of guilt or innocence.

50. In the formal system, a two-tiered system comprising a Dispute Tribunal and an Appeals Tribunal seemed to meet the international standards of justice by affording access to an independent tribunal and the right to appeal. The Secretary-General's proposal to establish a panel of three judges would need careful consideration, but it would seem to reflect the multicultural nature of the Organization and to ensure fair, balanced decision-making. Her delegation agreed with the Secretary-General that the awarding of exemplary and punitive damages would be improper in light of the nature and purposes of the United Nations.

51. **Ms. Chen** Peijie (China) said that her delegation was strongly in favour of reforming the United Nations system of administration of justice and would participate actively in discussion of the topic. She stressed the need to avoid duplication between the work of the Fifth and Sixth Committees; the latter should focus on the legal aspects of the issue. The goal was to create an effective, fair system of justice that was also simple and straightforward.

52. **Mr. Kuzmin** (Russian Federation) expressed his delegation's support for many of the comments contained in the note by the Secretary-General and, generally speaking, for the proposed radical reform of the internal justice system. However, such a reform would result in increased costs for the Organization; without prejudice to the work of the Fifth Committee, the Sixth Committee would also be called upon to discuss the issue of cost. It would be necessary to ensure that all United Nations staff who had no legal recourse to national courts were provided for without granting access to so many people that the new system would be overloaded and undermined. That was particularly important because, unlike Member States, the United Nations had few ways of protecting its justice system from baseless claims and counter-claims. It was also important to allow for monitoring by Member States; at present, their role was limited to confirming the decisions of the appellate bodies, and even under the new system, judges, ombudsman and other high officials would be appointed by the Secretary-General or other high-level officials.

53. His delegation did not fully understand the thinking behind recent appeals of the Secretary-General's administrative decisions relating directly or indirectly to labour relations, especially the lifting of immunity of Secretariat staff entitled to such immunity; he wondered whether such decisions could be appealed and ultimately overturned.

54. **Mr. Malpede** (Argentina) praised the drafters of the reform proposal for having consulted a wide range of Secretariat staff and officials. He was particularly encouraged by the attempt to improve the situation of staff posted away from Headquarters, especially those involved in peacekeeping and field operations, persons employed on special service agreements and individual contractors.

55. However, the proposal was overly ambitious and too closely modelled on the domestic law of States; perhaps such shortcomings could be addressed in a less costly manner. For example, the informal system could be improved by replacing voluntary service by full-time posts and including lawyers and other legal

professionals in the Joint Appeals Boards and Joint Disciplinary Committees.

56. It was stated in the Redesign Panel's report that there was a lack of consistency in the decisions of the Administrative Tribunal and that its jurisprudence was poorly developed. Clearly, the Tribunal was not a national court; however, it could be improved by amending its Statute, allowing it to meet more easily in plenary session and granting broader powers to its President. By increasing the number of its judges (perhaps to a total of 10), it might be possible to create a review or appeals body within the Tribunal itself rather than establishing a separate Appeals Tribunal as the Panel proposed. Furthermore, some delays were the result of a "culture of litigation" that could be discouraged by creating a selective appeals mechanism.

57. Lastly, he noted that the Administrative Tribunal had only two lawyers on its staff; additional legal officers should be recruited and the Office of Legal Affairs should be granted the power to mediate or intervene in disputes since, in practice, the Organization sometimes found itself defending a lost cause.

58. **Mr. Elmarghani** (Libyan Arab Jamahiriya) said that a transparent system of justice was needed in order to allow United Nations staff to exercise their rights effectively and in a timely manner. The reform should be conducted with respect for justice and the principles of international law and should reflect recent developments in that area.

The meeting rose at 11.55 a.m.

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Summary record of the 25th meeting
Held at Headquarters, New York, on Friday, 23 March 2007, at 4 p.m.

Chairman: Mr. Sivagurunathan (Vice-Chairman) ..... (Malaysia)

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Completion of the Committee's work for the resumed sixty-first session of the General Assembly

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07-28062 (E)

In the absence of Mr. Gómez Robledo (Mexico), Mr. Sivagurunathan (Malaysia), Vice-Chairman, took the Chair.

The meeting was called to order at 4 p.m.

Agenda item 153: Requests for observer status in the General Assembly (*continued*)

Observer status for the Islamic Development Bank Group (*continued*) (A/61/646 and A/C.6/61/L.20)

1. **Mr. Al-Anazi** (Saudi Arabia) said that the delegations of Cameroon, Guinea-Bissau and Kyrgyzstan wished to be added to the list of sponsors of the draft resolution.

2. *Draft resolution A/C.6/61/L.20 was adopted.*

3. **Ms. Ioannou** (Cyprus) said that her delegation could not associate itself with the consensus on grounds of principle. Observer status in the General Assembly should be granted only to organizations that met certain benchmarks, including unconditional adherence to the principles and values of the United Nations and compliance with its decisions. The Islamic Development Bank Group's participation in illegal visits to and projects conducted in the occupied portion of Cyprus constituted a blatant violation not only of the sovereignty, territorial integrity and domestic legal order of Cyprus, but also of international law, the Charter of the United Nations and mandatory resolutions of the Security Council, particularly resolutions 541 (1983) and 550 (1984).

4. **Ms. Shahar** (Israel) expressed concern regarding past relations between the Islamic Development Bank Group and Hamas, a terrorist organization; the Group's organizational chart showed that it operated the Al-Aqsa Fund and the Al-Quds Fund, which had known ties to Palestinian terrorists. Her delegation was considering its position on the matter.

5. **Mr. Al-Anazi** (Saudi Arabia) said that the Islamic Development Bank Group had a long history of cooperation with the United Nations and that none of its activities were in violation of the Charter or of international law. He stood ready to reply to any delegation's questions on the matter.

Agenda item 128: Administration of justice at the United Nations (*continued*) (A/RES/59/283; A/61/205, A/61/458, A/61/460 and A/61/758; A/C.6/61/L.21)

6. **The Chairman** said that the Committee's Working Group on the Administration of Justice, which he had chaired, had held nine meetings from 12 to 23 March 2007. It had reviewed the legal aspects of the report of the Redesign Panel on the United Nations system of administration of justice (A/61/205) and the Secretary-General's comments on that report (A/61/758) and had been briefed by the Secretariat on a number of issues raised by delegations. There had been general agreement that the existing system of justice in the United Nations had significant problems and should be reformed expeditiously; the new system should be independent, transparent, professional and consistent with international law and with the principles of the rule of law and due process, taking into account the unique nature of the United Nations.

7. During their discussion of legal issues relating to the formal and informal systems for the administration of justice, delegations had considered that the informal system should be able to address as many grievances as possible at the earliest stage and should be strengthened through means that might include an integrated but decentralized Office of the Ombudsman and a strengthened mediation function. A complaint pending in the informal system should not be brought in parallel to the formal system, and parties should be precluded from litigating claims resolved through mediation. The formal system should comprise two tiers: a first instance and an appellate instance, both constituted by highly qualified professionals of recognized judicial standing. The formal system should render binding decisions and order appropriate remedies that should not include exemplary or punitive damages.

8. It had been considered, however, that the Committee should further examine, on the basis of additional information, the question of access to the formal and informal systems by persons who currently lacked adequate protection and that of the jurisdiction *ratione materiae* of the bodies in the formal system. Related issues requiring further consideration included the structure of the judicial bodies in the formal system, the question of administrative review, the availability of class actions by staff associations, the number of judges constituting the first instance, the role of mediation in the formal system, the possibility

that bodies in the formal system might grant relief by way of specific performance, the lifting of the two-year cap on compensatory claims, the grounds for appeal of a judicial decision and the financial accountability of staff. The Working Group had agreed that while legal assistance should continue to be provided to eligible persons and should be strengthened, the means of doing so, such as through a centralized and professional office, should be further considered. Subsequently, it had been proposed that the Working Group should consider the possible establishment of a single administrative tribunal with two instances. Delegations had also commented on the Committee's future course of action on the item, taking into account the need to coordinate its work with that of the Fifth Committee.

9. The Working Group had then considered a chairman's draft that listed points on which there appeared to be general agreement and had discussed the format of its recommendation to the Committee. It had been agreed that he would write a letter to the President of the General Assembly, attaching the list of points of agreement and the text of the draft decision agreed by the Committee (A/C.6/61/L.21), with a request that the letter and its annexes should be brought to the attention of the Fifth Committee and be issued as a document of the Assembly. Copies of those draft documents had been made available to delegations and discussed by the Working Group.

10. *Draft decision A/C.6/61/L.21 was adopted.*

11. **Mr. Kuzmin** (Russian Federation), supported by **Ms. Collet** (France), said that while he welcomed the adoption of the draft decision, he regretted that it had been made available to delegations only in English. Pursuant to the rules of procedure of the General Assembly, the Secretariat should take all necessary steps to ensure the translation of documents, and especially draft decisions, into all official languages of the Organization.

12. **The Chairman** said that the draft decision was now available in all six official languages.

13. **Mr. Sandoval** (Colombia) said that his delegation wished to reiterate its understanding that the terms "informal system" and "formal system" in the English version of the report of the Redesign Panel and the note by the Secretary-General would continue to be translated by "*sistema extrajudicial*" and "*sistema judicial*" and that those terms would be used in all future documents on the topic, bearing in mind that the six official languages of the United Nations were equal.

14. **Mr. Beras Hernández** (Dominican Republic) announced that he associated himself with the representative of Colombia.

15. **Ms. Rodríguez-Pineda** (Guatemala) said that in her view, the matter required further discussion. Her delegation did not believe that the words "*extrajudicial*" and "*judicial*" in Spanish accurately translated the English terms "informal" and "formal".

16. **Mr. Sandoval** (Colombia) said that his delegation had the right to express its views on both procedural and substantive matters. The documents that the Committee had before it were the basis for its work, and all future official documents on the administration of justice in the United Nations should preserve the language used in the report of the Redesign Panel.

Agenda item 110: Revitalization of the work of the General Assembly (*continued*)

Provisional programme of work of the Sixth Committee for the sixty-second session of the General Assembly (A/61/458)

17. **The Chairman** announced that, in view of the outcome of the Committee's work on the administration of justice at the United Nations during the resumed session, it had become necessary to readjust its provisional programme of work for the sixty-second session of the General Assembly (A/61/458). The changes would allow for greater flexibility in the Working Group's meetings, if necessary, and for a more efficient use of conference services. He noted that the dates listed for discussion of the criminal accountability of United Nations officials and experts on mission should be changed from 15 and 16 October 2007 to 15 and 26 October 2007.

18. **Ms. Negm** (Egypt), supported by **Mr. Fitschen** (Germany), speaking on behalf of the European Union, and **Mr. Adsett** (Canada), said that the revised programme of work would create a conflict with the General Assembly's discussion of agenda item 71 (Oceans and the law of the sea), and that such overlapping should be avoided in future.

19. **The Chairman** said that the Bureau was aware of the overlap but had been unable to avoid it because of the Committee's heavy agenda for the sixty-second session. However, the programme of work was provisional and could be revised.

20. **Mr. Fitschen** (Germany) asked why three different topics — measures to eliminate international terrorism, criminal accountability of United Nations officials and experts on mission, and the rule of law at the national and international levels — were scheduled to be discussed on 26 October 2007.

21. **The Chairman** said that two of those items, namely, measures to eliminate international terrorism and criminal accountability of United Nations officials and experts on mission, might already have been dealt with by working groups, which would simply report briefly on the results of their discussions on 26 October 2007.

22. *The revised programme of work of the Sixth Committee for the sixty-second session of the General Assembly was adopted.*

Completion of the Committee's work for the resumed sixty-first session of the General Assembly

23. After an exchange of courtesies, **the Chairman** declared that the Sixth Committee had completed its work for the resumed sixty-first session of the General Assembly.

The meeting rose at 4.40 p.m.